IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

WEDNESDAY, THE 20TH JUNE 2007 / 30TH JYAISHTA 1929

WP(C).No. 12048 of 2007(H)

PETITIONER:

SUDARSANA T.N,THEKKEN NAMBIDI HOUSE,
IRUNILAMKODE P.O,KANJIRASSERY,MULLAKKARA,
PIN- 680 583.

BY ADV. SRI.MADHU RADHAKRISHNAN
SRI.S.VISHNU

RESPONDENTS:

1. THE MANAGER,KERALA KALAMANDALAM ARTS HIGHER SECONDARY SCHOOL,(THE SECRETARY,KERALA KALAMANDALAM),VALLATHOL NAGAR P.O, CHERUTHURUTHY, THRISSUR,PIN-679 531.

2. KERALA KALAMANDALAM,REPRESENTED BY ITS SECRETARY,VALLATHOL NAGAR P.O,CHERUTHURUTHY, THRISSUR,PIN- 679 531.

3. THE DISTRICT EDUCATION OFFICER,CIVIL STATION,AYYANTHOLE,THRISSUR.

4. THE DIRECTOR OF PUBLIC INSTRUCTIONS, THIRUVANANTHAPURAM.

5. STATE OF KERALA REPRESENTED BY THE SECRETARY TO GOVERNMENT,CULTURAL AFFAIRS DEPARTMENT,GOVT.SECRETARIT,THIRUVANANTHAPURAM.

Addl. R6. SUJATHA.K., AGED 34 YEARS,
W/O A.K.SATHEESHKUMAR, AYYATH KIZHAKKEKKARA
KUMARANALLUR.P.O., THRISSUR

Addl. R7. MINI HARIDAS, USHA NIVAS, NEDUNGOTTOOR,
SHORANUR, PALAKKAD
(Additional respondents 6 and 7 impleaded as per order dated 13.6.07 in IA 7095/07)

BY ADV. SRI.GEORGE POONTHOTTAM SC KERALA MAMANDALAM
GOVERNMENT PLEADER SRI.A.J.VARGHESE
SRI.K.JAJU BABU
SRI.S.P.ARAVINDAKSHANPILLAY,SC, KER.KALAMANDALAM

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 20/06/2007, ALONG WITH WPC NO. 11900 OF 2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

Ext.P1: True copy of Order No.KKM.A4/857/05 dated 21.5.2005 issued by the 2nd respondent.

Ext.P2: True copy of the certificate No.KKM/A3/13/2007 dated 4.1.2007 issued by the 2nd respondent.

Ext.P3: True copy of the letter dated 30.1.2007 of the petitioner addressed to the 1st respondent.

Ext.P4: True copy of the judgment dated 22.2.2007 in W.P.(C) No.5412/07 of this Hon'ble court.

Ext.P5: True copy of the order No.KKM/CA/320/07 dated 13.3.2007 issued by the 2nd respondent.

Ext.P6: True copy of the communication No.A1.13418/2000 dated 22.6.2000 of the Deputy Director of Education, Thrissur.

Ext.P7: True copy of the G.O.(MS)404/2000/G.Edn.dated 1.12.2000.

Ext.P8: True copy of the order No.EM6/101957/04/DPI dated 27.1.2006 issued by the 4th respondent.

Ext.P9: True copy of the judgment in O.P.No.21357/01 and O.P.No.21358/01 of this Hon'ble Court.

// True copy //

P.A. To Judge

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A.K.BASHEER, J.

W.P.(C)Nos.12048 & 11900 OF 2007

Dated this the 20th day of June, 2007

JUDGMENT

After arguing the case for sometime, learned counsel appearing for the petitioners in both these writ petitions, restricts his plea for a direction to the Government to take a comprehensive decision in the matter.

2. Learned counsel points out that this court, in a common judgment in O.P.Nos.21358 & 21357 of 2001 filed by additional respondents 6 and 7 and others, had in fact directed the Government to decide the status of the High School and Higher Secondary School being run by the Kerala Kalamandalam with particular reference to the question whether those schools do come under the Kerala Education Act and the Rules. This court in particular, wanted the Government to take a decision whether these institutions are aided schools for 'all purposes'.

3. The above judgment was rendered on May 26, 2006 as revealed from Ext.P9. It is admitted by learned counsel for

the parties that the Government is yet to take a final decision in the matter as directed by this court. Learned counsel for the petitioners point out that it is now unambiguously declared by the Government that the institutions are being treated as aided schools but nevertheless it is not yet clear whether the said declaration would take in all the trappings of aided institutions as defined under the Kerala Education Act and the Rules. Petitioners are aggrieved that they are being denied the benefits available to teachers under the KER for no apparent or justifiable reasons. These aspects had in fact come up for consideration before this court in the two cases referred to above. This was also one issue which was referred to the Government by this court for a decision. Of course the said direction was in respect of petitioners who had filed those two writ petitions. It is for that precise reason the petitioners have now made a plea for a direction to the Government to take a comprehensive decision in the matter.

4. In the above facts and circumstances, I do not propose to deal with the merit of the rival contentions raised by the parties at this stage. It will be open to the petitioners and the party respondents including Kalamandalam to urge all their contentions before the Government. A comprehensive decision shall be taken by the Government in the matter as expeditiously as possible, at any rate, within three months from the date of receipt of a copy of this judgment. Of course, I take note of the submission made by the learned Government Pleader that a committee has already been constituted by the Government to go into matters relating to the syllabus, qualification of teachers, etc. A copy of the order issued by the Government in this regard has been produced as Ext.R1(a). In my view, all the above aspects and particularly the directions contained in Ext.P9 judgment shall be kept in view when a final decision is taken in the matter. In the meanwhile, it will be open to Kalamandalam to

proceed with the selection process to make provisional appointments in terms of notification dated 6.5.2007.

Writ petitions are disposed of as above.

A.K.BASHEER, JUDGE

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